

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2017 REGULAR SESSION  
**Unofficial Document**

Amend printed copy of **HB 333**

From page 19, line 2, through page 20, line 20, by deleting all text and inserting in place thereof:

"➔Section 5. KRS 218A.1412 is amended to read as follows:

- (1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:
  - (a) Four (4) grams or more of cocaine;
  - (b) Two (2) grams or more of heroin, ~~[-fentanyl,]~~ or methamphetamine;
  - (c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;
  - (d) Any quantity of lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; ~~[-or]~~
  - (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs; or
  - (f) Any quantity of fentanyl, carfentanyl, or fentanyl derivatives.
- (2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.

Amendment No. HFA 1

Rep. Rep. Russ A. Meyer

Committee Amendment

Signed: \_\_\_\_\_

Floor Amendment

LRC Drafter: Trebelhorn, Matt

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

Rejected: \_\_\_\_\_

Doc. ID: XXXX

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- (3) (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense.
- (b) Any person who violates the provisions of subsection (1)(e) of this section:
1. Shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense; and
  2. a. Except as provided in subdivision b. of this subparagraph, where the trafficked substance was heroin and the defendant committed the offense while possessing more than one (1) items of paraphernalia, including but not limited to scales, ledgers, instruments and material to cut, package, or mix the final product, excess cash, multiple subscriber identity modules in excess of the number of communication devices possessed by the person at the time of arrest, or weapons, which given the totality of the circumstances indicate the trafficking to have been a commercial activity, shall not be released on parole until he or she has served at least fifty percent (50%) of the sentence imposed.
  - b. This subparagraph shall not apply to a person who has been determined by a court to have had a substance use disorder relating to a controlled substance at the time of the offense. "Substance use disorder" shall have the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.
- (c) Any person who violates the provisions of subsection (1)(f) of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense, except that if at the time of an offense in violation of subsection (1)(f) of this section a defendant is determined by a court to have had a**

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*substance use disorder relating to a controlled substance, then he or she shall be guilty of a Class D felony for the first offense and a Class C felony for the second offense. As used in this paragraph "substance use disorder" has the same meaning as in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.*

~~(d)(e)}~~ Any person convicted of a Class C felony offense or higher under this section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin."